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Supreme Court, U.S.
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No.

In The Supreme Court of the United States

October Term, 1989

MATTHEW SETERA, PETITIONER, PRO SE

V

JOHN TEMME

D. Craig Landin

Jim Mattox

George W. Kunze

Frank E. Vandiver

Respondents

Part I

PETITION FOR WRIT OF CERTIORARI TO THE

UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

Matthew Setera, Petitioner, Pro Se

9 Cumberland Street

Cumberland, Rhode Island 02864

67 pp

QUESTIONS PRESENTED FOR REVIEW

1) Whether violations to Apellant-Petitioner's 'Due Process' & Property Rights as afforded him under the Fifth Amendment US Constitution can be maintained by the 5th ckt of Appeals?

2) Wether Federal Rules of Civil Procedures (FRCP) can be maintained by the courts below in a consistant, just, fair, & uniformly applied manner at all times & under all circumstances under 28 USC 2072 & Fifth Amendment US Con?

3) Whether the extablished concept of Stare Decisis is really established & therefore cannot be maintained by the courts below or even by this High Court without doing violence to such concept coming under 28 USC 2072 & VI Article US Constitution?

4) Whether is is proper for this High Court to delay or deny Petition for Cer

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4) tiorari on a question of violation of one's US Constitutional Rights which are volatile either within or without the Federal Court System or both as i n this case, thereby not fulfilling i ts duty under Art III Sec 2, Art IV Sec 2, & VI A rticle, US Constitutio n to uphold one's rights afforded un der such US Constitution and thereby itself setting a precedent?

5) Whether it is not appropriate for thi s High Court to establish basic funda mental rules of conduct and to includ e standards of ethics and morality as guidlines for such conduct in all inf erior courts below and to extend to t his High Court the same, not exemptin g itself such that the balance scales are even handed and on the level for all times, circumstances & situations and thusly maintained?

6) Whether Petitioner has court standing in other cases already dealt by this High Court and which he bears a relat ionship to such kind because of commo n violation to his basic fundamental Constitutional Rights?

7) Whether Petitioner is entitled to fur ther reliefs because of violations to his 'Due Process' rights and for the fair & just adjudication of this case as outlined from above & below?

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No.

In The Supreme Court of the United States

October Term, 1989

Matthew Setera, Petitioner, Pro Se.

v

John Temme

D Craig Landin

Georg W Kunze

Frank E Vandiver

Jim Mattox

Respondents

Petition for Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit

The Petitioner, Matthew Setera, Pro Se respectfully petitions that a Writ of Certiorari be issued to review the judgment entered on 12 April 1990 and the petition for rehearing entered on 25 May 1990 of the United States Court of Appeals for the Fifth Circuit.

Opinion Below

The Court of Appeals entered its Memorand um Decisions, remanding the case back to the Federal District Court, while denying the Petition for Rehearing, and which Dec isions are given in the Appendix.

Jurisdiction

The Jurisdiction of this court is invoked under Title 28 USC 1254 1. (Writ of Certi orari)

Jurisdiction is also invoked under 28 USC 2072 (to include the 7th Amendment right to jury trial, federal rules, statutes, c onstitution, matters* pertaining to the US Supreme Court).

*Prindiple: Stare Decisis (Opiinions of this High Court remain decided).

Constitutional Provisions Involved

Vth, XIVth Amendments to the US Constitut

ion (Property Rights, "Due Process". . .)
IXth Amendment US Constitution (The enume
eration in the Constitution, of certain r
ights, shall not be construed to deny or
disparage others retained by the people.)
Xth Amendment US Constitution (The powers
not delegated to the United States by the
Constitution, nor prohibited by it to the
States, are reserved . . . to the people.)

Articles: III Sec 2, IV Sec 2, VI of the
US Constitution

Article III Sec 2 (the Judicial Power sha
l extend to all cases in law and equity a
rising under this Constituion, ...to cont
roversies...between a state and citizens
of another state, between citizens of dif
ferent states,...)

Article IV Sec 2, (The citizens of each s
tate shall be entitled to all privileges
and immunities of citizens in the several
states.)

Article VI (This Constitution, and the La ws of the United States which shall be ma de in Pursuance therof; ...shall be the s upreme Law of the Land; and the Judges in every State shall be bound thereby,...)

Jurisdiction & Venue

Jurisdiction is also invoked under federa l & Texas statutes and Texas Constitution and those in the prceedings below & in th e table on Authorities.

Statement of the Case

Plaintiff (Pl) sent both summons & compla int to two defendants of the Grievance Co mmittee who are the main thrust to this s uit and who did not respond to either. P l sought Default action and/on favorable Summary Judgment and was ignored. These individuals have entered into conspiracy between themselves & others to prevent Pl from having his day in court by exonerati ng Pl's lawyer from fulfilling his contra ctual obligations. This conspiracy has a basis worse than having an invicidious an imus to it, for it is a widespread web of conspiracy which beginning outside of the court now extends to the Federal court sy stem in order to quash its exposure. The re are two aspects to this case: the 1st aspect A), has two parts; 1) In count II of complaint, these defendants conspir ed among themselves and with Pl's lawyer

to prevent him from litigating against th e 'alter ego', an original conspiracy to defraud Pl of his 'property rights', 2) In count i, these defendants (Grievance Committee members) conspired among themse lves (& from hindsight, with Pl's lawyer) to prevent Pl from freely exercising his civil privileges & rights afforded him u nder the 14th Amendment US Constitution to make full use of his attorney to liti gate pl's original case and then exonera ting pl's attorney from wrong doing.

Statement of Facts

In the 2nd aspect, B) The web of conspir acy that entered into the Federal court s ystem, now extends to it, for the Judicia ry does not want to handle either count o r both! It is notable that the complaint was bifurcated to handle separate allegat ions but which federal conspiracy prevent ed adequate response on pl's ability to c

omplete a 'perfected' amended complaint i
n a very highly restricted, limited, & un
reasonable time period without recourse t
o motions and which amended complaint (un
der conspiracy, no perfected amended comp
laint is sufficient) was of a complex &
complicated nature & mailed and delivered
within the ten days to be received, which
was on 30 Sept 1988, and which date in ac
tuality gave pl less then ten full days.
This is cruel & unusual punishment for a
Federal judge to inflict upon pl & is con
trary to the 8th Amendment US Constitutio
n with the additional absurd restriction
of prohibiting any motions and which inte
nt reveals the invicidious animus of the
Federal conspiracy and then to impose FRC
P 12 (b) (6) failure to state a claim upo
n which relief may be granted, resulting
in the abuse of power & discretion under
color of office. At this point, two thin
gs are notable: 1) counsel's admission

that the statutory limitations was exceed ed whereby the Grievance Committee member s exonerated pl's attorney from any such breach, and 2) counsel's admission that he does not represent said defendants.

Pl then proceeded to appeal and sought ma ndamus and change of venue with the restr iction that no Texas judge should adjudic ate this case as having a compelling inte rest which would prejudice this case; it turned out that three panel judges all ha iled, honed in, and hovered over the mand amus and it died because it was quashed!

Appellant (Appl) motioned this court and it was intercepted by Justice Byron R Whi te and motion was denied. Appl then wrot e his brief followed by counsel to counse l's brief & who also sought the Record on Appeal (ROA) and it was granted with an e xtension of time. Appl likewise wrote hi s reply brief and requested the ROA and w

was denied. He then petitioned for rehea ring en banc for the purpose of obtaining the ROA, his 'due process' right and prop erty right as well according to the 5th A mendment UF Constitution and again or a c hange of venue and was denied on both acc ounts, resulting then, in this Petition f or Writ of Certiorari. The contention of conspiracy made in the lower court, predi cted in the upper court is now made manif est in this high court. This anharmonic symphony played out in the courts below h as been under the (mis)-direction of a fo rmer US congressman, a common deffndant b eing both affluent & influential in the c ourts.

Arguments and Authorities

Question 1) 'Due Process' & Property R.

In the proceedings of the 5th ckt Appeals Court, Appl emphasized two main issues;

1) He requested a change of venue as no

confidence could be had in the lower cour t, 2) He requested the ROA, that being hi s Property Right & 'Due Process' Right as well, & afforded him under the 5th Amendm ent US Constitution & such issues were pas sed over usb silentio. The 5th ckt follo wed with order to remand case back to the US District Court for further proceedings and Appl objected and in his petition for rehearing en banc again emphatically expr essed the two main issues a la FRAP 35 (a) (1) (2): (a) When hearing or rehearin g en banc will be ordered (1) When consi deration by the full court is necessary t o secure or maintain uniformity of its de cision, or (2) When the proceeding invol ves a question of exceptional importance and consequence.

It is well know that ignorance of the law is no excuse and thus did the 5th ckt d o violence to the Appl's rights afforded hi m under the 5th Amendment US Constitution

and therefore Appl had no choice but to motion this High Court which has Jurisd iction over the latter and US Constitutio n, its laws, statutes, . . . and which mo tion was intercepted by Justice Byron R White and now incorporated within this P etition for Writ of Certiorari for a full comprehension of the manifold aspects of this case. It also notable, that the chi ef & senior Judge in the US District Cour t @ Houstion and one Judge on the en banc panel are Texas Judges and share the same locale; therefore they are not unknown t o each other nor to the defendants in que stion as all being members of the judicia ry! (another reason for a change of venu e) For such familiarity most easily prod uces a warped and bemuddled judgment and has disastrous effects and consequences. "Truth has a way of shifting under pressu re." -Curtis Bok

The 5th ckt not only neglected to report various aspects of this case, but also ne blected to prevent & to protect Appl from further continuing abuse of power, (See Question 2).

Question 2) FRCP, V,VI Amend US Const

The above synopsis shows that the chief & senior Judge (John V Singleton) did err grievously for the evidence on deposit & already incorporated within that court bo th in the original & amended complaint we nt unheeded. Namely, Scheuer v Rhodes, c ite as 95 S CT 1683 (1974) & Wood v Stric kland, 420 US 398 (1974) & he did know or should have known as these two give refer ence & address the question: Wether an i nsubstantive rule can have the effect of dismissing a substantive claim? The ref erence is FRCP 12 (b) (6): failure to st ate a claim upon which relief can be gran ted. Further in the several motion exten

ding for a year, pl did request FRCP 52 (Findings of Fact) which pl believes could have & should have been granted, if for n o other purpose than to complete properly an amended complaint. However, pl also d id seek for FRCP 55 (Default) as the main defendants did not respond to summons or complaint and/or favorable Summary Judgme nt (FRCP56) & with regards to reliefs sou ght. The presumed purpose for the amende d complaintwas to present it along the li nes of Elliot v Perez, 751 F 2d 1417 (5th ckt 1985), however, as appl pointed out t his is in direct contra distinction to Anderson v Liberty Lobby, Inc ciet as 196 S CT 250 5 (1986) which produced FRCP on Summary J udgment (FRCP56). In the above FRCP 52 o n Findings of Fact for the expressed purp ose of an amended complaint, Pet does not believe is irrelevant even if Summary Jud

gment were given, as it is believed only to serve the interest of an improved amen ded oomplaint, but please note that there was a sufficiency of facts & allegations presented in the original for the main d efendants were not only in violation of t the variousDisciplinary Rules (DR'S) and ethical considerations (EC'S) (See Texas Civil Statutes Vol 11A Attorneys) but hav e become surety for pl's attorney, a com mon law practice.

Pet believes that for this case the prope r mode calls for Summary Judgment (FRCP 5 6) because of the nature of the many & va ried reliefs sought in the court of first instance. But nontheless he believes Fin dings of Fact are necessary in order to d etermine the best, fair, & just way to ad judicate this case.

Neither did the district judge see fit to

respond to FRCP 52 b) to amend, avert, o r reconsider judgment order, as if one ca n arbitrarily respond to or not, perhaps depending on the consideration of worthin ess of pl. neither did the court respond to his request to appeal under FRAP 4 (28 USC 1291, 1295). Therefore appl did appe al directly to the 5th ckt court and soug ht Mandamus (FRAP 21) and this was denied en banc of a threesome set of Texas Judge s and considered mooten in spite of the f act appl did request that all Texas judge s dismiss themselves from this case as al l have a compelling interest and due to t he affluence & influence of a former US C ongressman defendant.

Appl's Reply Brief in addition to the fir st two cases above, added Biven v Six . . 403 US 388 (91 S CT 1999) 29 L ED 2d 549 (1971) which addresses thesame problem in more detail, and these coming under the c oncept of Stare Decisis (28 USC 2072) & V

I Amendment US Constitution show & expose s the blunderbuss situation.

Although the 5th ckt remanded the case b ack to the District Court for further pro ceedings, appl objected and sought FRAP 3 5 (a) (1) (2) (Petition for Rehearing en Banc) to review the ROA, and for a change of venue as no confidence could be had in that court. These fair & just refiefs we re denied. Therefore, all these opinions & infractions of FRCP coming under the co ncept of Stare Decisis (28 USC 2072), V & VI Amendments US Constitution show & expo se the the blunderbuss situation of both lower courts. Apparently, the contumely in the District Court below also extends to the court mailroom as pl's motions hav e been lost, misplace, shredded (a common occurence in government) or whathaveyou? Perhaps too, as coming by pone express, i t has not yet arrived, if you can believe that. Please note too, that unauthorized

personnel have entered via unauthorized m otions & unchecked, rather, permitted by said judge and even as the motion to pet ition this court which was intercepted by Justice Byron R White was mailed an unaut horized motion crossed the mail on its wa y but to the District Court @ Houston and at'tempt'ing said judge to again dismiss this case in a picky choosy fashion on th e bases of 1) failure to state a claim. . . 2) qualified immunity, 3) statute o f limitations exceeding, all of which hav e been adequately addressed in the lower court.

This now leads into the question: whethe r such infractions of unauthorized person nel is allowable in a court of law? need s clarification & relief sought is one of prevention. Please note, no amount of pe rsuasion or urging was effective in eithe r court to prefent violation of pl-appl 'due process' rights as affrorded him by

the 5th Amendment USConstitution as such infractions & violations are repugnat to the US Constitution and these judges have knowingly & willingly pursued them and th e thread bare veil which separates the st ates of incompetance from that of devious competency is no longer present upon reac hing this court not even a trace remains or can be found and the two states are an d have become indistinguishable!

Such behavior of conduct show an impetus for continuing unchecked the conspiracy w hich orinating outside of the Federal Cou rt now gained access somehow and continue s undiminished with the same impetus & as extending to it. Another question relate d to matters is this: whether the oath o f office can require absolute allegiance such that it is contraiwise to the dictat es of one's oonscience, as that being the higher order rather than that allegiance to the state or government? This is a do

uble-loaded question for purposes in this section of argumentation, an erroneous co nscience that can be demonstrably shown t o be so must be corrected. The other sid e of this question is addressed in Questi on 6)

Statutes involved: 28 USC 453 (Oath of O ffice), 28 USC 455 (Disqualification of J udges), 28 USC 526 (Clerks of Court), 28 USC 1391, 1404, 1405, 1406, (Change of V enue).

One relief sought in the District Court w as removal of counsel from office because facts & evidence pl has are also availabl e to him as the 'alter ego' of defendants and continues to act under color of offic e in violation of pl's 14th Amendment US Constitutional Rights and Texas Laws; Texas Penal Code Ann @ 39102 (Official Oppression), Texas Revised Civil Statutes AnnArt 6252-26 @ 1 (a) (2), Vernon 1972 Supp 1979 (For Actual Damages) & Vernon's

Texas Civil Statutes Vol 11A Attorneys.
It is abundantly clear from the above dis cussion that the 5th ckt did not seek the welfare of appl not only volatile but gro ss negligence of duty to provide protecti on to prevent further erosions of his Con stitutional Rights & 'Due Process' and wh ich neglect failed to report various aspe cts of this case and to protect him from further abuse of power within the court o f first instance.. "The greater the power s the more dangerous the abuse." -Edmund Burke and "The men (Americans) detest mos t violently are those who try to tell the m the truth." -H L Mencken and also "The ultimate test of what a truth means is th e conduct it dictates or inspires." -Wm James

Whether the FRCP are so loosely formulate d & unclear that it leaves foom for manip ulation of pls below to mean what they wa nt them to mean even to giving appearance

of impropriety or setting precedents at law even giving to the phantom of a hoax. The actions so displayed show that today as then in the days of the judges of Isr ael, "Every judge did what he thought was right in his own eyes for ther was/is no King (Chief) among them!!! Authority; (See Judges 21:25). It has also been said in the vernacular: "Those who cannot rem ember the past are doomed to repeat it!" -Jorge Santillana

The Federal courts show unquestionably th at not only no confidence can be found bu t the same producing the need for a chang e of venue coming under the various stat utes, and the relief sought is the change venue to original court where claim was brought, namely, to the US District Court @ Providence, Rhode Island, (1st ckt). T his bizarre behavior is clearly evident t hrough the actions (questionable ones) ta ken by an affluent & influential fromer

US Congressman, the real culprit causing the crisis within the Federal courts belo w and also a defendant in this matter. I n passing, and of fact, no input of Distr ict Judge was had until a year elapsed wi th the order for an amended complaint and various questions & reliefs went unheeded. A subsidiary question is this: whether i t can be established for the pls below th e need to have immediate access under 28 USC 2072 to this High Court in order that justice can be made to flourish and preva il when the FRCP are flagrantly violated & and are volatile in the lower courts? NB The insurrmountable problems are not s o much as the judges appear to be express ing them as much as this pl-appl is encou ntering & experiencing them in obtaining fairness & justice, fair & square without being rounded off in the Federal Court Sy stem! The modus operandi as displayed by

the inferior courts by denying pl-appl due process & reliefs in complaint & motions is due to expediency, each court becomes its own modicum of assemblance of due process a volatile action of the 1st degre, and contrary to the code of conduct of the judiciary.

Question 3) Stare Decisis

Nowhere has this High Court expressed itself and the relatiinship of its opinions in regards to the various FRCP, FRAP, Federal laws, statutes and how they are/are not to be astutely kept and adhered to. As the areguments already developped so indicate, there are far too many 'sockdolingers' (ie these are those ones who apply the sockdolager in an unorthodox manner) setting on the courts below who may or may not apply them and apparently not in any consisten way. Since such action taken by the lower courts set a precedent of al

arming trends their actions/inactions the mselves result in opinions/anti-opinions & contrariwise to the concept of Stare De cisis & which this High Court's opinions should prevail coming under 28 USC 2072 & VI Amendment US Constitution. Therefore such breach is a flagrant disregard of th e law of the land. The misuse of FRCP 12 (b) (6) is an old hat, song, & dance trio of a hackneyed cliche which continues to be mis-used, mis-represented expression b y various judges through chicanery & othe r shenanighans & not confined to the 5th ckt either. Therefore, it ought to behoo ve this court to reaffirm and give creden ce to this concept of Stare Decisis in no uncertain terms and pet so requests.

The subsidiary question is this: whether pls-appls can bypass proceedings & to hav e direct access to this High Court's for intervention without the laborious & time

consuming & expense of seeking Writ of Certiorari when the concept of Stare Deci sis is volatile, violated & mutilated in the oourts below?

Whether this High Court has unchangeable criteria for its selection of cases as th e S CT rules on the same are not always f olled & therefore its picky choosy manner is perplexing.

Question 4) Denial of Certiorari

On Pet's way up to this court he has foun d a strangness of goings on in all the co urts: whether truth is no longer the ser vant of fairness & justice but becomes su bservient to expediency of a situation et hics or some other cause as demonstrable in the inferior courts below? in this ca se yielding to the pressures of expedienc y of a former US Congressman through his affluence & influence easily warping one'

s better judgment & reason.

Another notable strangeness found is that truth does not always reside with the majority opinion either, sometimes it resides with the minority opinion and most always it exists as half-truths, hence, the subsidiary question: whether objective truth can be estavlished a la Stare Decisis rather than subjectivism a la situation ethics or some other cause. One thing is abundantly clear: that the doctrine of absolute immunity cannot be maintained in view of violations to one's US Constitutional Rights.

The alternative to denial of certiorari is given in Pet's motion for such petition was intercepted by Justice Bryon R White and now incorporated for clarification & completeness. Another subsidiary alternative is also found in the papers sent to the 5th ckt (Appeals Court); could it be

that denial for the Writ amount to denial of the Truth for the sake of expediency? The relevant problem and question is whether this High Court can deny Pet Writ of Certiorari in such a way that its denial lets stand the opinions or even lack of opinions in the inferior oourts and in such manner as to do violence to already established opinions relative to such case and coming under the Stare Decisis concept, IN Such a way as to prevail over this court's opinions, this High Court setting also a precedent? Because the crisis entered into the court of first instance went by unchecked by the 5th ckt & itself establishing & continuing the crisis, indeed the courts below are in crisis (& pisies) but neither is such crisis limited to the 5th ckt. Fortunately, there are those who show some concern of a deepening crisis of twists & turns in the entire judiciary not limited by the Federal system (locall

y, the state judiciary has been deeply & likewise perturbed and the public confide nce is eroded and at an all time low as t he crisis continues) (local examples may be had upon request). Fortunately, ther e are those associated with this court wh o show concern as more & more these court s are coming under fire, the conduct & fa cts show discrimination & prejudice, the courts becoming lackeys of the affluentia l & influential according to expediency. (See Appendix A1); although this court appears lackadaisical in its approach to such problematic matters it must of neces sity now confront them! The challenge th en is to restore confidence & to re-estab lish the condept of Stare Decisis.

"All laws which are repugnant to the Cons titution are null and void." Marbury v M adison, 5 US (2 Cranch) 137, 174, 176, (1 803).

"Where rights secured by the Constitution are invilved, there can be no rule making or legislation which would abrogate them." Miranda v Arizona, 384 US 436 p 491

"An unconstitutional act is not law; it confers no rights; it imposes no duties; affords no protection; it creates no off ice; it is in legal contemplation,(conte mptuous?) as inoperative as though it had never been passed." Norton v Shelby Coun ty 118 US 425 p 442.

Needless to say the above cases are also applicable to Question 6) & throughout th is petition.

For reasons already found discussed, whet her an unjust denial of certiorari can be maintained under abuse privileges or rath er in violation of Art III Sec 2 & VI Ame nment US Constitution. To deny this peti tion & threfore let 5th ckt decision to s tand is to continue to abuse pl-appl-pet'

s 'due process' & Vth & VIth Amendments R
ights and the mangling & manipulation & m
anhandling of pls in the lower courts.
To refuse certiorari is to continue an in
dependent investigation of a perplexing &
perpetuating conspiracy originatin from o
utside; a cover-up (characteristic of go
vernments) (recent years) not at all sal
utary to pl's rights. Why was default no
t acted upon although pleaded, for the ju
dge really knows his reasons (see Canons
on the Judicial Code of Ethics). Whether
arbitrarily changing this court's opinion
s at anytime is characteristic of this co
urt even if only one time & that for the
purpose of expediency or other reason to
include none at all?
"The pillars of truth and the pillars of
freedom--they are the pillars of society."
-Henrik Ibsen
"Truth above all, even when it upsets and

overwhelms us." -Henri Amiel

"A free government without adequate provi sion for personal security is an absurdit y." Daniel Webster

The Golden Rule is embodied in "Give to e very other human being every right that y ou claim for yourself." -Thomas Paine

This latter very much applicable to Quest ion 6).

QUESTION 5) MORES, MORALS, ETHICS

It has been said you can't legislate mora lity, therefore you can't execute it, wel l, there is but one other way to unsure i t and that is to adjudicate it and theref ore it most properly belongs to this High Court to do so, otherwise it is void of p rinciples of right & wrong. Because rece nt decisions of this court have set alarm ing trends, standards of ethics, morality mores must be made for the common good, t he tranquility of the nation and for esta

blishing peace among peoples. Pet has th e right to present these questions on mor ality for the courts below have shown a p ropensity to favor & reward the defendant s for their malicious iniquity and to con tinue conspiracy upon pl denying his righ ts, thereby punishing him the more! Inde ed Lady Justice has been blinded for too long and needs her blinders removes, scal es re-adjusted and balanced on the level and even-handed. The courts, both Federa l & State are becoming and gaining ever t he more the distrust of the public and es pecially locally here in this state of Rh ode Island. The hassel & antagonism has already resulted in one judge impeachment and another resigned (newpaper clippings available upon request) and senior federa l judge Raymond J Pettine can affirm thes e instances.

As it so happens, Alice continues to be a mazed; when she entered through the gate

s, little did she realize she really step ped into the looking glass and it was won derland! There she met Humpity Dumpity s ettin on the wall and brought her complai nt to him. Sir! she cried, "These defen dants have become surety for their malpra ctice & conspiracy to defraud me!" "Hrum ph, said Humperdinck Dumperdinck, you have failed to state a case! Therefore it is dismissed." Hrumph. "My you have a stra nge way with words" cried Alice. Humperd inck Dumperdinck then said, "They mean wh at I make them out to mean, no more, no l ess." "Hrumph" Then Alice cried & cried, "Why you have defrauded me." Then she lo oked into the looking glass and saw . . . What did she see? . . . Why she saw . . . "He who represents himself has a fool for a lawyer." (The origin of this expressio n by a well known statesman has long gone been forgotten, as the legal profession u

ses it in another context). Well, "He wh o . ."said to Alice, "Dry up your tears, Alice, what you must do is turn them into beams of high intensity light and dispel the shadows that lurk within the gates, b ringing to the light the manifold goings on found there!" Little did Alice realiz e what a wonderful fool she had, neither were her tears useless nor wasted. It tu rned out Humperdinck Dumperdinck wasn't q uite cracked up to be what he was suppose d to be, and you know the rest; he had s uch a great fall, all the kins horses and all the kins mens . . .Yessuh, yessuh, Ra leigh. . . A moral is summed up in the o ld ditty: "Laddy bug, lady bug (Lady Jus tice without the blinds) fly away home, y our house is afire, yo chil'un mite git b urrrnt! Yessuh, yessuh, Raleigh . . . Fortunately, there are some associated wi th the judiciary who are concerned with w hat is going on within the gates of justi

ce & the escapade from the 5th ckt show i ts intensity of constricting & involvment through conspiracy of Pet's US Constituti onal Rights.

Seeing as no fast rule of ethics or condu ct has been established for the courts ex cept for the ABA rules of Code on Judicia l Conduct, none of which are enforceable, therefore petitioner believes it is incum bent upon this court to establish a stand ard moral code for all the judiciary neit her exempting itself from such so that La dy Justice should not be blind, rather sh ould see that the scales of justice can b e and are evenhanded and the scales are b alanced at all times and under all circum stances in all situations. If the shoe f its, then you wear it. And to establish ethics, mores, morality for the tranquili ty & peace of the nation procuring & rest oring thereby confidence of the judiciary for all citizens in matters pertaining to

the public domain; please note: some sa
y it's beyond this court to muddle or med
dle in such affairs erroneously believing
it best to let George do it (but George i
s so full of such kind he too has no time
for them); whereas some there are who ha
ve the common sense approach such that th
e facts show it is becomeing more evident
& necessary to do so. Further, that the
ethics &mores of thechurch is and has no
common ground with that of the state & ov
erlapping it in matters pertaining to the
common good, for all citizens as if the f
irst "mendment applies, is a fallacy.
The time has come and it is already here
arrived for doing so. (See Appendix A2,A3)
Pet supports that an independent committe
e be enjoined & brought into being for so
doing & that this court participates if o
nly through review of results of such act
ion taken, for the beneficial results of
this in the long run has a limiting effec

t on the number of cases brought before this court through the promulgation & es tablishment of a standard code of ethics & mores in the public domain. Abasic le sson that must be re-taught & re-enkindl ed as laying again the foundation of jus tice. Whether a modicum of ethics & mor es does not belong to this high court to affix for all times some standard of ope rating procedures (SOP)?

Another strange thing happened on the wa y to court, everyone knows what obscenit ies are until one comes through the gate s of justice to prosecute defendants for such violations established under custom rule or law, or traditions, for the cour t cannot & will not define such kind. L ittle wonder when it receives obscene co mplaints or motions by 'virtue' of which neglect they know & thereby permit & enc ourage them! (C'est dommage; o lo bida)

There are various organizations coming u

nder the guise of Anti Judaic-Christian L
iberties U-nuts, conspiring, influencing
& overreaching into various phoreign ent
anglement of phoreign filosofies by itchi
ng, twitching, tickling & scratching the
ears of this court to ephphect such kind
which it inspires for its own ends; this
is worse than an invicidious animus for i
t seeks in a conspiratorial way to overth
rown established government via the judic
iary of our Constitution, Traditions, His
tory & Religion (Trinity Decision) coming
as it does from a relativistic humanist
secularist relativism, in an unsuspecting
way through unproven, untested nor true p
horeign filosofies. History warns govern
ment not to entangle or involve itself wi
th such kind of questionable value.
in regards to unacceptable permissive lif
estyles, porneia, let the states do what
is their responsibility to do ie rehabili
tate such kind for the benefit & welfare

of its citizens. What is needed is rathe r a firm denial of such kind with apprehe nsion of consequences in the public domai n, for such related acts are proscribed. To affirm denial of such conduct as permi ssive is not liberty at law (a misconcept ion). Such opprobrium is alarming and gi ving approbation to porneia lifestyles wa s never approved or sanction in tradition , history, or religion. Can anyone reall y contest that this nation has not fallen back & backwards on its back, of its more s, morals, ethics? "Righteousness exa lt s a nation, sin is a reproach to any peop le." (Prov 14:34)

Lawyers too, are professional & legal pic kpocketeers which one must pay on two acc ounts: 1) whether or not they fulfill t heir obligations to clients & 2) for the ir 'mistakes', one must dearly pay again wether wittingly or unwittingly, knowingl y or unknowingly and then such cleverly d

evised schemes go rewarded by the protect ion clause (encumbrances) of the legal pr ofession adherents!

Should this High Court not resolve proble ms rather than to complicate them by refu sing to solve them for all time! not dis tinguishing the various issues & princip l es involved?

"Those people who are not governed by God will be ruined by tyrants." -Wm Penn

"We cannot divide ourselves between right and expediency." -Immanuel Kant

"Who can protest and does not, is an acco mplice in the act." -Talmud

"An error doesn't become a mistake until you refuseto correct it." -O A Battista

"An oppressive government is more to be f eared than a tiger." -Confusius

Question 6) Related Cases Standing

Roe v Wade commonly know as pro life v/vv pro choice (death). The analogous presen

t case being expressed as pro 'life'-liho od v/vv pro choice (death-US Constitution al Right aborted). Because of the strong & overwhelming analogy, pet enters into d iscussion: the basis of life is moral & this court has acted contrariwise to the established & commonly held mores, ethos, historical & Judaic-Christian traditions (Trinity decision) of morality of this na tion, thereby establishing a conduct unac ceptable throughout the nation & has itse lf been in violation to the spirit of the US Constitution & associated documents. As if privacy rights of the mother can be maintained & extended to a living human f etus which is human life & proven to be s o & a human person which is independent o f its mother depending only on nutrition & protection and in such a way as to exte rminate that human fetus which is a human person; neither is this human life fetus a sole property right of its mother for i

t is formed by the property right of an e gg of its mother joined to another proper ty right of the sperm of its father (ther eby establishing his right), yet the huma n person of the fetus is unique & a livin g entity in & of itself, independently of either parent. The human life & human pe rson of the fetus cannot be separated for both are in need of time for its developm ent of the whole person-human. This cour t has acted as if within the womb the fet us is a non-entity & after exiting it, th e same fetus is an entity if for no other purposes for citizenship & consensus. Th e moral theological principle it has viol ated is this: when a reasonable doubt oc curs, as presently in the personhood of a fetus, one presumes to give the benefit o f doubt to the fetus as endowed with huma n personhood &inalienable rights establis hed. The result of this error of the cou rt's decisions inflicts cruel & unususal

punishment upon the fetus thereby resulti ng in violation of the VIII Amendment US Constitution; other decision also viola ted property & privacy rights of the fath er as having a compelling interes in the fetus, his very own, even if the parents believed differently, the benefit is app lied to the fetus, a person. Having thus ly acted, this court is in violation of t the church v state clause of the 1st amen dment US Constitution, for it is establis hed through tradition, history, that this country is founded upon the Judaic-Christ ian ethos of the mainstream orthodox foll owers and is the basis for and basic to t he full understanding of the US Constitu tion, its laws, statutes and cannot be de nied, even if most citizens were converts to Islam, our history & traditions cannot be denied. Our ethos has always maintain ed the supreme dignity of the human fetus as sacrosanct but with the sweep of the p

en this court has denied it through the e rosion of these principles & therefore wh enever this court comes into direct confl ict with that higher spiritual law which supercedes & transcends the law of the la nd, consequencies must and do follow. Ou r forefathers did earnestly proscribe suc h actions being contrariwise to the Decla ration of Independence and preamble to th e US Constitution, self evident truths, t herefore it has sinned & transgressed aga inst the very spirit of the US Constituio n embodied in the preamble, and theassoci ated documents.

Preamble; We the people . . establish j ustice, insure domestic tranquility, . . promote the general welfare, and secure t he blessings of liberty to ourselves and our posterity, . . .

Dec of Ind: We hold these truths to be s elf evident, that all men are created equ al, that they are endowed by their Creato

r with certain inalienable right, that am ong these are life, liberty and the pursu it of happiness.

That whenever any form of government beco mes destructive of these ends, it is the right of the people to alter or to abolis h it, and to institute new government,. . Our forefathers did expressly state these self-evident truths knowingly their proge ny would likely tostray from them to purs ue phoreign entanglements of unproven & untested value.

The American negroe prior to the Declarat ion of Emancipation was considered a non entity after which he became a human pers ons; this analogy to the biological fetu s which is a human person unique to the h uman species is too great to pass up.

This court's decision is repugnant to the spirit of the US Constitution and associa ted documents, its traditions, history & Judaic-Christian ethos and has produced a

profound deepening crisis toward instabil
ity & tranquility & the disturbance of th
e conscience of the nation all contrariwi
se to the Spirit of the US Constitution,
a cornerstone of this nation.

The Catholic conscience: "We feel that t
his majority opinion of the court is wron
g and is entirely contrary to the fundame
ntal principles of morality, Catholic tea
ching holds that, regardless of the circu
mstances of its origin, human life is val
uable from conception to death because ma
nkind has been redeemed by Jesus Christ.
No court, no legislative body, no leader
of government, can legitimately assign le
ss value to some human life. Thus, the l
aws that conform to the opinion of this c
ourt are immoral laws, in opposition to G
od's plan of creation and to the divine l
aw which prohibits the destruction of hum
an life at any point of its existence. W
henever a conflict arises between the law

of God and any human law, we are held to follow God's law." -Statement of Catholic American bishops of 13 February 1973) The bishops also referred to the principl es of the Declaration of Independence and the Constitution and declared: "The huma n rights guaranteed by our American laws are therefore unalienable because their s ource is not man-made legislation but the Creator of all mankind, Almighty God."

Therefore, because pet has standing in th is case (pet est unus e pluribusque multi tudine civibus) and is a member of a clas s of citizens of like conscience, and tog ether with them do hereby invoke under th e Xth Amendment US Constitution (powers retained by the people) to revoke this High Court's decision in that afforementi oned case and to call it null & void. It is also mandated to <u>show cause</u> why this s hould not be granted.

Hear Ye, Hear Ye, Hear Ye then: That Supreme Judge which has been rejected by this High Court, now re-enters humbly riding on an ass, His Supreme Majesty speaketh to Ye: "Here, then, Ihave today set before you life & prosperity, death and doom. ... I call Heaven & Earth today to witness against you. I have set before you life & death, choose life, then, that you. . may live." (Authority: Dt 30:15, 19) And lo & behold, another wonder: the ass itself speaketh to Ye: "Am I not your own beast (citizen) & have you not always riden upon me (overtaxed me) until now? Have I been in the habit of treating you this way before?" (Authority: Numbers 22 :30). As the saying goes: Fools enter in where Angels fear to tread. In recent times the adjudication by this court on various cases has shown from the grapevine (legal profession) to the grass roots

(citizenry) growing dissatisfaction of th e administration of existing laws by both the state & federal judiciary.

Other cases in which pet believes he has standing because of common violations to his rights are;

Texas v Johnson (aspects not considered are violations to property rights under (VIth, XVIth and/or Xth Amendments US Cons titution, flag more than a symbol, a prop erty right, conduct)

Abaddon v/vv Teshuvah (An ongoing contro versy which extends to this court)

More on the above cases in PART II of Petition. I dare say, does the Hebrew Exc lusion Principle apply to this High Court House?

Whether the state or government can compel a citizen to pledge or act or take oath o f office which goes contrariwise & again st one's conscience?

Such pre-eminance prevails when it follow
s a higher law that conscience is aware o
f and the fact that judges have a conscie
nce now puts them into direct conflict wi
th law of the land as in the Roe v Wade a
nd thereby conflict with and disturbs the
tranquility & peace of the nation. (see
also those cases mentioned on pp 24,25).
"Beware of the truth. If you find a trut
h it can demand that you make painful cha
nges." -Frank Herbert
"When good people in any country cease th
eir vigilance and struggle, then evil men
prevail." -Pearl S Buck
An interesting chorus is this: Great min
ds against themselves conspire,
And shun the cure they most desire.
Taken from DIDO & AENEAS By Henry Purcell
(1658-1695)
"The world is now too dangerous for anyth
ing but the truth." -A Powell Davies

Question 7) Reliefs Sought

1) a)
Pet seeks to review the ROA his 'due proc ess' right & property right afforded him under the protection of his Vth Amendment rights US Constitution & in the original, intact, unadulterated, & unabridged form anything less than that bespeaks with emp hasis further conflict & conspiracy to ob struct justice within the federal courts. (See G___v Novotny, 442 US 366 p 377) ina dvertently omitted in Question 1) now inc luded.

b) In dismissing the complaint a la FRC P 12 (b) (6), it is thought the judge is senile, not being able to keep abreast of the times & much less retaining past case histories which he knew or otherwise shou ld have known; therefore a motion of rec usal, nor the impeachment process is thou ght appropos, but rather he be mandated e arly retirement (because of senility, has

lost too many marbles), otherwise the lat ter relief to be invoked. And because pe t believes in personal responsibility, se nior judge of that court to pay or assume court cost, attorney fees, other expenses deem proper & fitting & dock-(et)-ed out of his salary.

c) As to the FRAP 35 (a) (1) (2) violati on & Vth Amendment violation, the en banc trio to assume court cost, attorney fees, expenses deem proper & dock-(et)-ed out o f salary but with the stipulation each co ntributing the same so as to triple the a mount because of the insidiousness of the ir malicious neglect and the triple angui sh, pain, & suffering it inflicted.

d) For the various appeals judges who participated in denying mandamus the same like relief is requested as in 1) c). Because such unlawful behavior & unethica l conduct under color of office disturbs

& perturbs the judiciary system wrongfull y; & because of the intensity of irrespo nsibility, absolute immunity cannot be pl eaded when a constitutional right is viol ated & volatile.

2) Pet seeks for change of venue under 28 USC 1391, 1404, 1405, 1406, 1412, for no confidence can be found anywhere withi n the 5th ckt as judges there play out th e role of lackeys very well, catering to a former US congressman, defendant, givin g ears to inducing, seducing doctrines no t found kosher. The self-evident circums tances clearly sho this need; therefore pet seeks this change to the US district court @ Providence, Rhode Island (1st)ckt) Senior judge Raymond J Pettine, presiding as he has the best record of any of the j udges and is well known & respected for h is even-handedness & balance. By now cou nsel has well 'earned' this transfer by

his actions/inactions. Circumstances cl early show an impediment exists to contin ue within the 5th ckt for lack of fairnes s & justice & a transfer must be made, an d with this change he also seeks the vari ous reliefs previously sought in the lowe r courts and to seek preventive measures for such occurences for the sensitivities & sensebilities of Pet are surely able to seek out the manifold pertubances on the scales balances.

3) Whether patronizing judges ought to b e continued in the nineties much less tur n o' the century, whereby this is the onl y form of government that is not elected, pet believes the time has come and is alr eady here for so doing and seeks input fr om this High Court on the matter. After all they are doing what comes naturally, being the pawns of their constituents who

recommend them in the first place. Therefore a change in that process is needed and recommended as is so evident.

4) Because of the many infractions, of the various FRCP, laws, statutes, Constitution, pet seeks to bypass the tortuous, delayed, & expensive route to this court via writ of certiorari whereas such department ought to be challenged on the spot while the scent is fresh since this court has jurisdiction coming under 28 USC 2072 Show cause why this speed up cannot be implemented especially should other violations become apparent, for the trustworthiness of all the courts are being challenged and pet emphatically seeks this relief.

5) HOUSECLEANING: ORDER OF THE DAY
Show cause why this should not be mandated from the bottom up to the top and from the top to the bottom and to establish a

code of conduct between judges & lawyers for the courts are in disarray & hypocrit ical. (upon request newpaper accounts ca n be had) (da reel batlles not owt dere b ut rite cheer widden deeshe y'ere cawts! yessuh, yessuh, Raleigh!) The bottom lin e is Lady Justice has got her balancing a ct out of perspective & 'tis sad to say t hat gran' ol' dame, she ain't wot she yoo s ta bee.

6) Seeks to reverse Roe V Wade already d iscussed prior at least partially in Q 6) and mandates it to be under pet's & like citizens' Xth Amendment US Constitution.

7) Pet seeks an extended 60 days to cont inue this petition in part II as his need for theROA was not adhered to & he is not faulted in this as request was priorly gi en in his motion to this court.

Authorities

Anderson v Liberty Lobby, Inc, cite as 196 S CT 2505 (1986)

Biven v Six ...403 US 388 (91 S CT 1999, 29 L ED 2d 549 (1971)

G____v Novotny, 442 US 366 p 377

Elliot v Perez, 751 F 2d 1417 (5th ckt 1985)

Marbury v Madison, 5 US (2Cranch) 137, 174, 176, (1803)

Miranda v Arizona, 384 US 436 p 491

Norton v Shelby County 118 US 425 p 442

Shheuer v Rhodes, Cite as 95 S CT 1683 (1974)

Wood v Strickland, 420 US 308 (1974)

Summary of Argument

Petitioner seeks the Record on Appeal (RO A) as his 'due process' & property rights afforded him under the protection of his Vth Amendment Right US Constitution, and to continue this Petition for Writ ofCert iorari in Part II upon receiving the ROA. Far too many of his Constitutional Rights V,Art VI, VII, VIII, XIVth Amendments hav e been aborted on his way up to this cour t by the lower courts, therefore he seeks to triple monetary damages/the alternativ e is jury trial.

Reasons for Granting the Writ

Violations to Petitioner's Vth, VIIth, VIII, &XIVth Amendment Rights & his VIth Article to the United States Constition have not afforded him his 'due process' w ithin the lower courts. The review of th ese laws is exclusive to this HighCourt u nder Articles III Sec 2, IV Sec 2 US Cons

titution & 28 USC 2072.

Conclusion

For the aforementioned reasons given brie fly, Petitioner requests his reliefs be i mplemented, venue to Federal court (Prov idence, Rhode Island, for this case can b est be digested by spoon feeding in bits & pieces however unpalatable. The bottom line conclusion is that if this High Cour t cannot conclude this case within its co urts, the the conclusion (clean-up) must be had from without.

Respectfully submitted.

Matthew Setera,
Petitioner, Pro Se
9 Cumberland Street
Cumberland, Rhode Island
02864

90-790

Supreme Court, U.S.
FILED
SEP 24 1990
JOSEPH F. SPANIOL, JR.
CLERK

No.

In The Supreme Court of the United States

October Term, 1990

MATTHEW SETERA, PETITIONER, PRO SE

V

JOHN TEMME

D. Craig Landin

Jim Mattox

George W. Kunze

Frank E. Vandiver

Respondents

A P P E N D I X

PETITION FOR WRIT OF CERTIORARI TO THE

UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

Matthew Setera, Petitioner, Pro Se

9 Cumberland Street

Cumberland, Rhode Island 02864

18A

A P P E N D I X

Appendix. . . . . Ai

US District Court Order. A1, A2

Petition for Writ of Mandamus
. . . . . A3, A4, A5, A6

Appeal Motion. A7

Appeal Judgment Order. . . A8, A9, A10

Petition for Rehearing. . . . A11, A12

Related Matters:

(On Mandamus). A13, A14, A15

(On Newspaper Clippings). . . A15, A16

IN THE UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF TEXAS

HOUSTON DIVISION

MATTHEW SETERA, PLAINTIFF

VS. C.A. NO. H-87-3763

JOHN TEMME, ET AL., DEFENDANTS

ORDER

The matter now before the Court is th e Deffndants' Motion to Dismiss filed on D ecember 24, 1987 (Instrument #15). As gro unds for dismissal the defendants urged, a mong other things, Rule 12 (b)(6): that t he complaint failed to state a claim upon which relief can be granted. By its Order of September 15, 1988, the Court warned th e plaintiff that the complaint did, in fac t, fail to state a claim upon which relief can be granted. The Court ordered that th e plaintiff file a proper amended complain t by October 3, 1988. The plaintiff has f

ailed to do so. Thus, the Court today dis misses the complaint as failing to state a claim upon which relief can be granted and because of plaintiff's contumacious behavi or. It is therefore

ORDERED, ADJUDGED and DECREED that th is case be and it is hereby DISMISSED.

SIGNED this 25th day of October, 1988, at Houston, Texas.

John V Singleton

UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

No. 89-2243

USDC No. CA-H-87-3763

IN RE:

MATTHEW SETERA,

Petitioner.

- - - - - - - - - - - - - - - -

Petition for a Writ of Mandamus

to the United States District Court

for the Southern District of Texas

- - - - - - - - - - - - - - - -

Before REAVLEY, KING, and WILLIAMS, Circuit Judges

BY THE COURT:

Matthew Setera complains in his writ of mandamus that the district judge has dismissed his civil action at defense counsel's "bidding" and has therefore "not avoid

ed the appearance of impropriety but rather has given credence to an enhanced (and) enlarged conspiracy to prevent (the) case from having its effect." He requests that this court order (1) that the district court case be transferred to the Eastern District of Louisiana so that we can monitor the proceedings; (2) that the fees to process this petition be "extracted" from the district court; (3) that defense counsel be removed from the case and from representing defendants in all cases; (4) that the district court grant all the relief he has requested in his lawsuit and any he may request in the futrure "as the occasion demands."

J S

T M R

C D K

Setera moreover requests that all judges on this Court from Texas be disqualified from sitting on the panel to adjudicate this petition. As he has alleged no actua

l bias on the part of any judge, we constr ue Setera's request as a motion brought pu rsuant to 28 U.S.C. 455, and DENY the moti onoas unfounded.

The mandamus remedy is an extraordina ry one, granted only in the clearest and m ost compelling cases in which a party seek ing mandamus shows that no other means exi sts to attain the requested relief and tha t the right to the issuance of the drit is "clear and indisputable." In re Willy, 831 F 2d 545, 549 (5th Cir. 1987). The first of Setera's requests, that the matter be t ransferred, is moot, a final judgment havi ng been entered in the case. As to his re quests that the district court pay the fee s for this petition and that defense couns el be removed, we conclude that mandamus r elief is inappropriate. Finally, as to Se tera's request that we order the district

court to grant all relief requested in his lawsuit, we note that Setera possesses adequate means to attain the requested relief, which he has employed, by the filing of a notice of appeal from the district court's dismissal of his case.

The petition for a writ of mandamus is DENIED.

IN THE UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

No. 89-2097

USDC # H-87-3763

MATTHEW SETERA,

Plaintiff-Appellant

versus

JOHN TEMME ET AL.,

Defendants-Appellees.

Appeal from the United States District Court for the Southern District of Texas

ORDER:

As this Court has today entered an der denying appellant's petition for wri of mandamus (89-2243), IT IS ORDERED tha appellant's motion for a stay of the prc edings on appeal pending dispostion of t e petition is DENIED as moot.

THOMAS M. REAVLEY

United States Circuit Juc

IN THE UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

No. 89-2097

Summary Calendar

MATTHEW SETERA,

Plaintiff-Appellant.

versus

JOHN TEMME ET AL.,

Defendants-Appellees.

Appeal from the United States District Court for the Southern District of Texas

(H 87 3763)

(April 12, 1990)

Before CLARK, Chief Judge, WILLIAMS and DUHE, Circuit Judges.

PER CURIAM:*

Matthew Setera, a pro se litigant, filed a civil rights suit under 42 U.S.C. 19

83 against two members of the grievance co mmitteeeof the Texas State BAr Association; Jim Mattox, attorney general of the State of Texas; George W. Kunze, former dean of the graduate college of Texas A & M Univer sity; and Frank E. Vandiver, president of Texas A & M University. On September 15, 1988, the district judge ordered that Sete ra file an amended complaint on or before September 30, 1988, for the purpose of cla rifying Setera's underlying facts and clai ms. Specifically, the court ordered Seter a to set forth facts sufficient to pierce the qualified immunity of the state offici als. See Elliot v. Perez, 751 F.2d 1472 (5th Cir. 1985). The docket shows Setera' s certificate of service states that the a mended complaint was served by mail on Sep tember 30, 1988.

On October 25, 1988, the district cour t dismissed the action and stated; "(t)he Court ordered that the plaintiff file a pr

oper amended complaint by October 3, 1988. The plaintiff has failed to do so. Thus, the Court today dismisses the complaint as failing to state aclaim upon which relief can be granted and because of the plaintiff's contumacious behavior." It is possible that the district court believed that no amended complaint had been filed. No comment was made indicating that the filing was late. Because a mistake may have prompted the dismissal of Setera's suit, we remand for clarification or further action. We express no judgment as to the sufficiency of the amended complaint.

The judgment of the district court is VACATED, and this case is REMANDED to the district court for further proceedings.

---

* Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that rule, the court has determined that this opinion should not be published.

IN THE UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

No. 89-2097

MATTHEW SETERA,

Plaintiff-Appellant,

versus

JOHN TEMME, ET AL.,

Defendants-Appellees

Appeal from the United States District Court for the Southern District of Texas

---

ON SUGGESTION FOR REHEARING EN BANC

(Opinion 04-12-90, 5 Cir., 198_, __F.2d__)

(May 25, 1990)

Before CLAR, Chief Judge, WILLIAMS and DUHE', Circuit Judges.

PER CURIAM:

(X) Treating the suggestion for rehearing

All

en banc as a petition for panel rehearing, it is ordered that the petition for panel rehearing is DENIED. No member of the pan el nor Judge in regular active service of this Court having requested that the Court be polled on rehearing en banc (Federal Ru les of Appellate Procedure and Local Rule 35), the suggestion for Rehearing En Banc is DENIED.

ENTERED FOR THE COURT:

CHARLES CLARK

Chief Judge

CLERK'S NOTE: SEE FRAP AND LOCAL RULES 41 FOR STAY OF THE MANDATE. REHG-8

RELATED MATTERS: (ON MANDAMUS)

Firstly, in regards to the denial of the M andamus" Petition, the main argument has a lready been given within the body of this petition in which a certain circuit judge of the en banc panel which denied Mandamus being a common member to the local judicia ry as the US District Judge & the main def endants, all of the same locale, could hav e & should have dismissed or disqualified himself as having a compelling interest to produce a weigh factor so as to impair or warp the judgement; it is well known that familiarity breeds comptempt, then familia rity likewise warps the judgments; theref ore such influence of the same is likely t o be extended to the rest of the circuit c ourt!

Secondly, no Texas judge should have a say in the judgments of this case, as the bott om line is: the fair & just adjudication of this case can only result in an ancilla

ry effect on taxes (symonymous with Texas) in all aspects (oil, gas, alcohol, real estate, property taxes...) the latter ones especially affecting Texas circuit judges, but not affecting those of Lousiana or Mis sissippi (only a trickling/triffling effec t is dectected). It too, is well known th at the Federal courts in Texas are inundat ed with case bankruptcies: notably of the banking & realty industries (due in no sma ll part to improper mores of moral & ethic al violation/consideration.); also there is a cloud or cloak of clandestine manueve rings to dismiss as many as possible under the guise of JUSTITIA OMNIBUS, resulting i n a travesty on justice.

Thirdly, no Texas judges can properly or adequately adjudicate this case without pl aintiff having recourse to a chnge of venu e and preferably outside of the Fifth Circ uit! The cloak of words used in the circu

it opinions is easily discernible & the ma tters petitioner is presenting are self-evident even among the circuit judges.

RELATED MATTERS: (ON NEWSPAPER CLIPPINGS)

In regards to the newpaper clippings (ten (10) have been lodged with the court for i ts perusal & study) on mores, moral & ethi cal values; one entitled "He's the court' s supreme conscience" is notable as the in ference is, that the court has none! (oft times acting in a lackadaisical non common sensical manner). We know inanimate thing s have no conscience; we know the animal kingdom has no conscience (except for the species homo sapiens (humanis)); we kn w that animals do however, have a conscieous ness about them which includes the human s pecies and this latter is uniquely determi ned to have a conscience as well but may

be deadened through various means as if lo ngstanding scorched with a hot iron or gen etic defects or other inhibiting factors to its exercise & use; common sense exper ience so indicates.

Another article refers to the public educa tion system: "Our children need these (mo ral) values. Our society requires them. We, as a nation, can teach them. We must teach them now-" the need is quite genera l, all aspects & segments of our society need them!